

1 Gary M. Messing, Bar No. 75363  
gary@majlabor.com  
2 Jason Jasmine, Bar No. 215757  
jason@majlabor.com  
3 Monique Alonso, Bar No. 127078  
monique@majlabor.com  
4 **MESSING ADAM & JASMINE LLP**  
980 9<sup>th</sup> Street, Suite 380  
5 Sacramento, California 95814  
Telephone: 916.446.5297  
6 Facsimile: 916.448.5047

7 Attorneys for Petitioner  
8 **FRESNO DEPUTY SHERIFF'S**  
9 **ASSOCIATION**

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FRESNO COUNTY SUPERIOR COURT

By: A. Ramos, Deputy

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF FRESNO**

12 **UNLIMITED JURISDICTION**

13 FRESNO DEPUTY SHERIFF'S  
14 ASSOCIATION,

15 Petitioner,

16 v.

17 COUNTY OF FRESNO; and DOES 1-10,  
18 inclusive,

19 Respondent.

Case No. [19CECG00659](#)

**VERIFIED PETITION BY FRESNO  
DEPUTY SHERIFF'S ASSOCIATION  
FOR PEREMPTORY WRIT OF  
MANDATE, ALTERNATIVE WRIT OF  
MANDATE, AND REQUEST FOR STAY  
ORDER**

[CCP §§1085, 1087]

[Unlimited Civil Action]

20  
21 Petitioner Fresno Deputy Sheriff's Association brings this Petition for Peremptory Writ of  
22 Mandate, Alternative Writ of Mandate, and Request for Stay Order against Respondent County of  
23 Fresno, and Does 1 through 10, inclusive, and alleges as follows:

24 **PARTIES**

25 1. Petitioner Fresno Deputy Sheriff's Association ("Petitioner" or "DSA") is an  
26 employee organization as defined in Government Code §3500, *et seq.*, representing all deputy  
27 sheriffs employed by the County with regard to all matters concerning wages, hours and  
28

working conditions.<sup>1</sup> The DSA's represented employees are peace officers as defined within the Penal Code §830.1.

2. Respondent County of Fresno (“Respondent” or the “County”) is a municipal corporation operating under the laws of the State of California. At all times herein, the County was a local employing agency within the meaning of Penal Code §832.5, et seq., maintaining peace officer personnel information, as well a local agency within the meaning of the California Public Records Act (“PRA”), Government Code §6252.

3. At all times mentioned herein, Respondents Does 1 through 10, inclusive, were the agents, servants and employees of the County, and in doing the things alleged herein were acting within the scope of their authority of such agents. servants and employees with their permission and consent of the County. The DSA will amend this Petition to allege the true names and capacities of Does 1 through 10, inclusive, when ascertained.

## BACKGROUND

4. Penal Code §832.7(a) expressly provides that “peace officer or custodial officer personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from those records, are confidential and shall not be disclosed in any criminal or civil proceedings, except by discovery pursuant to §§1043 and 1046 of the Evidence Code.”

5. As used in §832.7, “personnel records” includes “any file maintained under that individual’s name by his or her employing agency and containing records relating to any of the following: ... (d) Employee advancement, appraisal, or discipline. (e) Complaints, or investigations of complaints, concerning an event or transaction in which he or she participated, or which he or she perceived, and pertaining to the manner in which he or she performed his or her duties.” Penal Code §832.8. By its plain language, § 832.8 recognizes that the enumerated categories in the definition of “personnel records” are protected by the right of privacy (including

<sup>1</sup> All code references herein are to the California Code.

1 a catch-all for “[a]ny other information the disclosure of which would constitute an unwarranted  
2 invasion of personal privacy”).

3 6. On September 30, 2018, Governor Brown approved Senate Bill 1421 (“SB 1421”)  
4 which amended Penal Code §§ 832.7 and 832.8.

5 7. SB 1421 amended Penal Code § 832.7 to (a) eliminate the long-standing statutory  
6 confidentiality previously accorded certain categories of information contained in peace officer  
7 and custodial officer (collectively, “Peace Officer”) personnel records, specifically personnel  
8 record information relating to “[e]mployment advancement, appraisal or discipline...[, or]  
9 [c]omplaints, or investigations of complaints, concerning an event or transaction in which [the  
10 Peace Officer] participated, or which he or she perceived, and pertaining to the manner in which  
11 he or she performed his or her duties,” and (b) allow public inspection of materials containing this  
12 specific information through a PRA request. Under amended Penal Code § 832.7, these categories  
13 comprise broad information regarding incidents: (1) involving the discharge of a firearm at a  
14 person by a Peace Officer; (2) in which the use of force by a Peace Officer against a person  
15 resulted in death, or in great bodily injury; (3) in which a sustained finding was made by any law  
16 enforcement agency or oversight agency that a Peace Officer engaged in sexual assault involving a  
17 member of the public; and (4) in which a sustained finding was made by any law enforcement  
18 agency or oversight agency of dishonesty by a Peace Officer directly relating to the reporting,  
19 investigation, or prosecution of a crime, or directly relating to the reporting of or investigation of  
20 misconduct by, another Peace Officer, including, but not limited to, any sustained finding of  
21 perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

22 8. Among other things, SB 1421 amended Penal Code §837.8 to add definitions for  
23 the terms “sustained” and “unfounded” used in amended §832.7. Attached hereto as Exhibit A,  
24 and incorporated herein by reference, is a true and correct copy of Chapter 988 of the 2017-2018  
25 Regular Session, Senate Bill 1421.

26 9. Because SB 1421 was enacted during the regular legislative session, and not  
27 designated “urgent,” the amendments became effective January 1, 2019.

1           10.    SB 1421 contains no express provision or language eliminating the confidentiality  
2 long afforded this information with respect to materials created before January 1, 2019, nor any  
3 clear indication that the Legislature intended the statute to operate so as to be applied and enforced  
4 with respect to Peace Officer personnel records and information created prior to January 1, 2019.

5           11.    Since January 1, 2019, numerous California Superior Courts have granted  
6 temporary restraining orders or alternative writs of mandate staying the production of pre-January  
7 1, 2019 records requested under the PRA pursuant to SB 1421, including Orange County, Los  
8 Angeles County, San Bernardino County, and Riverside County. In addition, the Ventura County  
9 Superior Court has issued a preliminary injunction on any such production after having previously  
10 granted a TRO.

11           On February 1, 2019, the California Attorney General announced that it would not be  
12 releasing records created before January 1, 2019 until further guidance from the courts, stating:  
13 “Historically, peace officers have had a significant privacy right in their personnel records ... the  
14 public interest in accessing these records is clearly outweighed by the public’s interest in  
15 protecting privacy rights.” <https://www.sacbee.com/news/state/california/article226293420.html>.

16           12.    To date only two superior courts have denied union requests for to block disclosure  
17 of police personnel files under SB 1421 (after having granted temporary restraining orders) -  
18 Contra Costa County (*Walnut Creek Police Officers’ Association v. City of Walnut Creek* (and  
19 related cases), Case No. N19-0109) and Los Angeles County (*Los Angeles Police Protective*  
20 *League v. City of Los Angeles*, Case No. 18STCP03495). Both courts, however, stayed  
21 implementation of their orders to allow an appeal and request for stay before the applicable district  
22 court of appeal. The unions have appealed the Contra Costa decision; the Los Angeles County  
23 decision issued on February 19.

24           13.    On or after January 1, 2019, the County received multiple lengthy PRA requests  
25 pursuant to SB 1421 from individuals and various media organizations for voluminous materials  
26 created before January 1, 2019.

1 **FIRST CAUSE OF ACTION**

2 **FOR ISSUANCE OF PEREMPTORY WRIT OF MANDATE,**  
3 **ALTERNATIVE WRIT AND STAY**  
4 **(Code of Civil Procedure §1085)**

5 14. The DSA realleges and incorporates herein by reference the allegations of  
6 paragraphs 1 through 14, inclusive.

7 15. The SB 1421 amendments to Penal Code §§ 832.7 and 832.8 constitute a  
8 substantial and adverse change to the existing statutory privacy rights of the DSA's membership.  
9 Pursuant to California Constitution, Article 1, §3(b)(3), any broad construction of statutes  
10 pertaining to the right of access to information of public agencies (such as the CPRA) does not  
11 supersede the construction of statutes that protect the constitutional right of privacy, including  
12 any statutory procedures governing discovery or disclosure of information concerning the  
13 official performance or professional qualifications of a Peace Officer.

14 16. The DSA's members have no plain, speedy and adequate alternative remedy at  
15 law, and they will suffer irreparable injury and damage in that, once publicly disclosed, the  
16 statutorily-mandated right of confidentiality in the private information contained in their personnel  
17 records created prior to January 1, 2019, will have been irretrievably lost. Moreover, violation of  
18 the statutory procedures for disclosure of police personnel records does not give rise to a private  
19 right of action for damages. Thus, with no private right of action for damages available to them  
20 for disclosure of information that has not even been subjected to the rigors of a *Pitchess* process,  
21 the DSA's members will be precluded from any relief if this information is disclosed yet  
22 ultimately determined to retain its statutory confidentiality prior to January 1, 2019.

23 17. Further, no guidelines have been promulgated at the County or city level as yet  
24 with regard to the parameters of what may be produced under the amendments. To the extent that  
25 Respondent produces materials created prior to January 1, 2019 absent any guidelines, even those  
26 private personnel materials still subject to continuing confidentiality are at risk for being  
27 disclosed.

28 18. Given that the legislation itself was not deemed "urgent," there is no need to push  
for immediate responses under the PRA without judicial clarification as to the scope of the

1 amendments, particularly given the inherent conflict between existing statutes respecting such  
2 disciplinary records and SB 1421. More guidance is plainly needed and the DSA's members will  
3 irreparably suffer if a decision to allow disclosure is hastily made.

4 19. The DSA has a beneficial interest in Respondent's compliance with its ministerial  
5 duty to guard the privacy rights of the DSA's members by refraining from applying SB 1421 so as  
6 to result in the release of confidential records created prior to January 1, 2019, the effective date of  
7 SB 1421.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Petitioner prays for the following relief:

10 1. That this Court forthwith issue an alternative writ of mandate directing  
11 Respondent and its agents, employees and representatives to refrain from enforcing or applying  
12 SB 1421's amendments to Penal Code §§832.7 and 832.8 in any manner that would result in the  
13 disclosure or production of Peace Officer information contained in personnel records regarding  
14 incidents or conduct occurring prior to January 1, 2019, or in the alternative, to show cause before  
15 this Court at a specified time and place why Respondent has not done so;

16 2. That on Respondent's return to the alternative writ, a hearing be held before this  
17 Court at the earliest practicable time so that the issue involved in this Petition may be adjudicated  
18 promptly;

19 3. That pending such return and hearing on the alternative writ of mandate,  
20 and until this Court otherwise directs, the Court issue an immediate stay order or grant an  
21 injunction prohibiting any enforcement or application of SB 1421 by Respondent and its agents,  
22 employees and representatives in any manner that would result in the disclosure or production of  
23 information contained in Peace Officer personnel records regarding incidents or reflecting conduct  
24 described in SB 1421 occurring prior to January 1, 2019;

25 4. That following the hearing on this Petition, the Court issue a peremptory writ of  
26 mandate or other relief directing Respondent and its agents, employees and representatives to  
27 refrain from enforcing or applying the amendments to Penal Code §§832.7 and 832.8 implemented  
28 by SB 1421 in any manner that would result in the disclosure or production of information

1 contained in Peace Officer personnel records regarding incidents or conduct occurring prior to  
2 January 1, 2019;

3 5. That Petitioner be awarded attorneys' fees and costs of suit; and

4 6. For such other and further relief as the Court may deem just and proper.

5 Dated: February 21, 2019

MESSING ADAM & JASMINE LLP

6  
7 By

8 Monique Alonso  
9 Attorneys for Petitioner  
FRESNO DEPUTY SHERIFF'S ASSOCIATION

1 VERIFICATION

2 STATE OF CALIFORNIA, COUNTY OF FRESNO

3 I have read the foregoing VERIFIED PETITION BY FRESNO DEPUTY SHERIFF'S  
4 ASSOCIATION FOR PEREMPTORY WRIT OF MANDATE, ALTERNATIVE WRIT OF  
5 MANDATE, AND REQUEST FOR STAY ORDER and know its contents.

6 I am the President of Fresno Deputy Sheriff's Association, a party to this action, and am  
7 authorized to make this verification for and on its behalf, and I make this verification for that  
8 reason. I am informed and believe and on that ground allege that the matters stated in the  
9 foregoing document are true.

10 I declare under penalty of perjury under the laws of the State of California that the  
11 foregoing is true and correct.

12 Executed on February 21, 2019 at Fresno, California.

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14   
15 Eric Schmidt  
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# Exhibit A

## Senate Bill No. 1421

### CHAPTER 988

An act to amend Sections 832.7 and 832.8 of the Penal Code, relating to peace officer records.

[Approved by Governor September 30, 2018. Filed with  
Secretary of State September 30, 2018.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1421, Skinner. Peace officers: release of records.

The California Public Records Act requires a state or local agency, as defined, to make public records available for inspection, subject to certain exceptions. Existing law requires any peace officer or custodial officer personnel records, as defined, and any records maintained by any state or local agency relating to complaints against peace officers and custodial officers, or any information obtained from these records, to be confidential and prohibits the disclosure of those records in any criminal or civil proceeding, except by discovery. Existing law describes exceptions to this requirement for investigations or proceedings concerning the conduct of peace officers or custodial officers, and for an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

This bill would require, notwithstanding any other law, certain peace officer or custodial officer personnel records and records relating to specified incidents, complaints, and investigations involving peace officers and custodial officers to be made available for public inspection pursuant to the California Public Records Act. The bill would define the scope of disclosable records. The bill would require records disclosed pursuant to this provision to be redacted only to remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace officers and custodial officers, to preserve the anonymity of complainants and witnesses, or to protect confidential medical, financial, or other information in which disclosure would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct by peace officers and custodial officers, or where there is a specific, particularized reason to believe that disclosure would pose a significant danger to the physical safety of the peace officer, custodial officer, or others. Additionally the bill would authorize redaction where, on the facts of the particular case, the public interest served by nondisclosure clearly outweighs the public interest served by disclosure. The bill would allow the delay of disclosure, as specified, for records relating to an open investigation or court proceeding, subject to certain limitations.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Peace officers help to provide one of our state's most fundamental government services. To empower peace officers to fulfill their mission, the people of California vest them with extraordinary authority — the powers to detain, search, arrest, and use deadly force. Our society depends on peace officers' faithful exercise of that authority. Misuse of that authority can lead to grave constitutional violations, harms to liberty and the inherent sanctity of human life, as well as significant public unrest.

(b) The public has a right to know all about serious police misconduct, as well as about officer-involved shootings and other serious uses of force. Concealing crucial public safety matters such as officer violations of civilians' rights, or inquiries into deadly use of force incidents, undercuts the public's faith in the legitimacy of law enforcement, makes it harder for tens of thousands of hardworking peace officers to do their jobs, and endangers public safety.

SEC. 2. Section 832.7 of the Penal Code is amended to read:

832.7. (a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

(b) (1) Notwithstanding subdivision (a), subdivision (f) of Section 6254 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by any state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Chapter 3.5

(commencing with Section 6250) of Division 7 of Title 1 of the Government Code):

(A) A record relating to the report, investigation, or findings of any of the following:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury.

(B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.

(ii) As used in this subparagraph, “sexual assault” means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

(iii) As used in this subparagraph, “member of the public” means any person not employed by the officer’s employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the agency.

(C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

(2) Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer’s action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

(3) A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure pursuant to this subdivision.

(4) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B) or (C) of paragraph (1), unless it relates to a sustained finding against that officer. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall be released if they are relevant to a sustained finding against another officer that is subject to release pursuant to subparagraph (B) or (C) of paragraph (1).

(5) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of complainants and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(6) Notwithstanding paragraph (5), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(7) An agency may withhold a record of an incident described in subparagraph (A) of paragraph (1) that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

(A) (i) During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the use of force occurred or until the district attorney determines whether to file criminal charges related to the use of force, whichever occurs sooner. If an agency delays disclosure pursuant to this clause, the agency shall provide, in writing, the specific basis for the agency's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.

(ii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who used the force. If an agency delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure

of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.

(iii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against someone other than the officer who used the force. If an agency delays disclosure under this clause, the agency shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, the agency must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest in prompt disclosure of records about use of serious force by peace officers and custodial officers. The agency shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.

(iv) In an action to compel disclosure brought pursuant to Section 6258 of the Government Code, an agency may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule thereto, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation.

(B) If criminal charges are filed related to the incident in which force was used, the agency may delay the disclosure of records or information until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea pursuant to Section 1018.

(C) During an administrative investigation into an incident described in subparagraph (A) of paragraph (1), the agency may delay the disclosure of records or information until the investigating agency determines whether the use of force violated a law or agency policy, but no longer than 180 days after the date of the employing agency's discovery of the use of force, or allegation of use of force, by a person authorized to initiate an investigation, or 30 days after the close of any criminal investigation related to the peace officer or custodial officer's use of force, whichever is later.

(8) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of his or her own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or his or her agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(g) This section does not affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(h) This section does not supersede or affect the criminal discovery process outlined in Chapter 10 (commencing with Section 1054) of Title 6 of Part 2, or the admissibility of personnel records pursuant to subdivision (a), which codifies the court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

(i) Nothing in this chapter is intended to limit the public's right of access as provided for in *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59.

SEC. 3. Section 832.8 of the Penal Code is amended to read:

832.8. As used in Section 832.7, the following words or phrases have the following meanings:

(a) "Personnel records" means any file maintained under that individual's name by his or her employing agency and containing records relating to any of the following:

(1) Personal data, including marital status, family members, educational and employment history, home addresses, or similar information.

(2) Medical history.

(3) Election of employee benefits.

(4) Employee advancement, appraisal, or discipline.

(5) Complaints, or investigations of complaints, concerning an event or transaction in which he or she participated, or which he or she perceived, and pertaining to the manner in which he or she performed his or her duties.

(6) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

(b) “Sustained” means a final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Sections 3304 and 3304.5 of the Government Code, that the actions of the peace officer or custodial officer were found to violate law or department policy.

(c) “Unfounded” means that an investigation clearly establishes that the allegation is not true.

SEC. 4. The Legislature finds and declares that Section 2 of this act, which amends Section 832.7 of the Penal Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

The public has a strong, compelling interest in law enforcement transparency because it is essential to having a just and democratic society.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.